

**UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND  
BALTIMORE DIVISION**

PAUL H. RIPLEY, JR.  
Plaintiff

CASE NO.

v.

JUDGE

THE UNITED STATES OF AMERICA  
Defendant

MAGISTRATE

**PETITION TO QUASH SUMMONS**

The petitioner Paul H. Ripley, Jr. a resident of Gambrills, Maryland, through undersigned counsel represents and states that:

1. Defendant herein is the United States of America.
2. Pursuant to 26 U.S.C. §7609(a) Plaintiff is a person entitled to notice of a Third-Party Summons issued by the Internal Revenue Service and has a right under 26 U.S.C. §7609(b)(2) to bring a proceeding to quash such summons.
3. Pursuant to 26 U.S.C. §7609(h) has jurisdiction to hear and determine any proceeding brought under 26 U.S.C. §7609(b)(2).
4. In conjunction with an attempt to collect certain former tax liabilities of Plaintiff properly discharged by the United States Bankruptcy Court pursuant to 11 U.S.C § 727 the Internal Revenue Service did on March 31, 2010 issued a third party summons to Berkshire Mortgage Securities and Michael T. Marshall, P.O. Box 230074, Centreville, VA 20120 seeking records pertaining to Form 1040 for the calendar periods ending December 31, 1984, December 31, 1985, December 31, 1986, December 31, 1989, December 31, 1990 and December 31, 1991. A copy of said Summons and Attachment is provided as EXHIBIT A.

5. Previously thereto Plaintiff had filed a Voluntary Petition under Chapter 11 of the United States Bankruptcy Code on September 24, 2007. [See In re Paul H. Ripley Case No 07-19213, filed in the US Bankruptcy Court for the District of Maryland, Baltimore Division.

EXHIBIT B.]

6. The Internal Revenue Service was listed as a creditor in the filing more fully described in ¶4 supra.

7. The case was converted to a case under Chapter 7 on May 13, 2008.

8. A representative of the Internal Revenue Service, Ms. A. Jackson, Bankruptcy Specialist, was present at the Initial Meeting of Creditors (341 Hearing) held in the 341 Meeting Room, Room 2650, Garmatz Federal Court House, 101 W. Lombard Street, Baltimore, Maryland 21201 on May 14, 2008 at 2:00 p.m. [Docket Entry 36]

9. The last day to oppose discharge or to file a complaint objecting to discharge was established as August 11, 2008.

10. The Internal Revenue Service filed a Proof of Claim on October 3, 2007, see claim No.1-1. The claim was signed by Ms. A. Jackson, Bankruptcy Specialist. EXHIBIT C

11. The Internal Revenue Service amended its proof of claim see claim No. 1-2. The claim was signed by M.H. Agent, Insolvency Specialist. EXHIBIT D

12. The Internal Revenue Service did not oppose the discharge or file a complaint objecting to discharge in the bankruptcy proceeding.

13. The tax years in question on the Third Party Summons more fully described in ¶4, supra were included in the bankruptcy.

14. The discharge in the bankruptcy case was entered on April 16, 2009. 11 U.S.C. §727.

15. The case was terminated on April 16, 2009.

16. The Discharge acts as an injunction against the Internal Revenue Service is barred from collecting the debt that was discharged. 11 U.S.C. §524(a)(2)

17. Plaintiff avers under penalty of perjury that he did not know Michael T. Marshall or Berkshire Mortgage Securities during the years for which the Internal Revenue Service is seeking records. See Affidavit of Paul H. Ripley, Jr. EXHIBIT E

18. The Summons issued by the Internal Revenue Service is needless, useless and is not needed under the circumstances and subjects Plaintiff to unnecessary examination and investigation and is prohibited by 26 U.S.C. §7605(b).

19. The Internal Revenue Service did not provide notice to Plaintiff of the issuance of the Third Party Summons in violation of 26 U.S.C. §7609(a)(1).

20. Plaintiff was not notified by the Internal Revenue Service of his right to intervene by filing a motion to quash the Summons pursuant to 26 U.S.C. §7609(b).

21. Plaintiff is not a person exempt from notification of a third party summons pursuant to 26 U.S.C. § 7609 (c)(2)(B) as there is currently no tax assessment against Plaintiff due to the permanent injunction imposed by 11 U.S.C. §§ 524(a)(2) & (3).

22. Plaintiff is informed and believes and alleges on the basis of information and belief, that the aforesaid summons dated March 31, 2010 (EXHIBIT A) was issued in an attempt to intimidate, humiliate, threaten and harass Plaintiff, all in violation of Plaintiff's due process rights and in violation of 11 U.S.C. §523 and 26 U.S.C. §6304(a)(2).

23. The Plaintiff met with Keith Belkin (herein, "the agent") of the Internal Revenue Service at the Plaintiff's residence in December 2009.



24. At that time and place the Plaintiff explained to the agent the fact of the bankruptcy filing and the discharge and the effect of the discharge on the duly scheduled pre-bankruptcy filing tax liabilities.

25. The agent knew of the existence of the Power of Attorney on file with the Internal Revenue Service for the undersigned counsel and failed to honor the power of attorney in violation of 26 U.S.C. § 6304(a)(2).

26. The purpose of the Summons was an obviously intended attempt to harass plaintiff into acquiescing in the collection of discharged tax liabilities in clear violation of 11 U.S.C. § 524.

WHEREFORE Plaintiff prays that after all due proceedings that:

1. That there will be judgment rendered herein in favor of Plaintiff, Paul H. Ripley, Jr. and against the United States ordering the summons dated March 31, 2010, directed to Berkshire Mortgage Securities described in Exhibit A respectively be quashed.

2. That there be judgment rendered herein in favor of Plaintiff, Paul H. Ripley, Jr. and against the United States, ordering the United States to pay all costs of these proceedings.

Respectfully submitted this 20<sup>th</sup> day of April 2010,



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**CERTIFICATE OF SERVICE**

It is hereby certified that on this 20<sup>th</sup> day of April 2010 a true copy of the foregoing was served via certified mail, postage prepaid to the parties listed below:

Berkshire Mortgage Securities  
P.O. Box 230074  
Centreville, VA 20120  
7008 3230 0001 2356 1700

Keith Belkin  
Internal Revenue Service  
11610 Georgia Avenue  
Wheaton, MD 20902  
7008 3230 0001 2356 1717

Secretary of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220  
7008 3230 0001 2356 1724

District Director  
Internal Revenue Service  
31 Hopkins Plaza  
Baltimore, MD 21201  
7008 3230 0001 2356 1731

A handwritten signature in blue ink, consisting of a large, stylized 'J' followed by a horizontal line extending to the right.

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John C. Gordon